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C O N F I D E N T I A L SECTION 01 OF 02 MADRID 002492

SIPDIS

DEPT FOR EUR/WE AND WHA/CCA

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TAGS: [CU](#) [ETTC](#) [PREL](#) [PHUM](#) [SP](#)

SUBJECT: SPAIN: LIBERTAD ACT TITLE III WAIVER REVIEW

REF: A. STATE 135512

[1](#)B. MADRID 2315

Classified By: Deputy Chief of Mission J. Robert Manzanares,
reasons 1.4(b) and (d).

[1](#)1. (C) Summary: The previous Spanish government under President Jose Maria Aznar was long in the forefront within the EU and on its own in criticizing Cuban human rights abuses, lack of movement toward democracy and absence of fundamental rights for Cuban citizens. The current government under Socialist President Jose Luis Rodriguez Zapatero, who took office in mid-April this year, has not softened Spain's position on Cuba but neither has it overtly continued Aznar's strident criticism. The past six months saw a continuation of Spain's actions and policies advocating a tough stance against the Castro regime. Although it is difficult to predict Zapatero's policies and actions toward Cuba, the absence of a Title III suspension might encourage the GOS to soften its position on Cuba both bilaterally and within the EU. Moreover, Spain would likely claim the U.S. has violated the common understanding reached with the EU concerning the Libertad Act (the Act) in May 2000. End summary.

SPAIN TOWARD CUBA UNDER AZNAR

[1](#)2. (C) Embassy provides this review of Spain's recent Cuba policy in response to ref A. Jose Maria Aznar's government was a strident critic of the Castro regime practically until the day Aznar departed office in mid-April 2004. Aznar was a prime force behind the hardening of the EU's position on Cuba after the Castro regime arrested more than 70 dissidents in March 2003. In June 2003, the EU announced that as a result of the arrest and sentencing of these dissidents, it would encourage member states to limit bilateral high-level government visits, reduce their participation in cultural events, and invite Cuban dissidents to national day celebrations. The EU also threatened to re-examine the EU's common position on Cuba. The Aznar government pushed hard for these measures and firmly supported them from the time the measures were announced until it handed over power to the Socialists in April. The Aznar government condemned the Castro regime multiple times in that period for its human rights abuses, lack of democratic reforms and failure to guarantee fundamental rights for its citizens. As a result of Spain's hard line, the Castro regime shut down Spain's binational cultural center in Havana.

[1](#)3. (C) In addition, at the USG's urging, the Aznar government in April 2004 pressed Honduras to sponsor this year's UNCHR resolution on Cuba. Honduras eventually did sponsor the resolution (after considerable reluctance). The Aznar government was also a key player in the EU's eventual decision to oppose Cotonou membership for Cuba, forcing the Castro regime to withdraw its application. In sum, the Aznar government did much to advance democracy, human rights and fundamental freedoms in Cuba while it was in power.

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ZAPATERO GOVERNMENT'S APPROACH TO CASTRO REGIME
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[1](#)4. (C) Since taking office in mid-April, the Zapatero government has not taken any actions or announced policy modifications that change Spain's Cuba policy as it existed under Aznar. As Embassy has previously reported (ref B), Foreign Ministry officials have told us Spain will maintain its tough stance on Cuba, saying Castro has done nothing to merit softening of the strong stand Spain and the EU have taken against the regime's human rights violations and refusal to allow democratic reforms. The officials have said, however, that the GOS would prefer to tone down the rhetoric that went back and forth between Castro and Aznar, and if possible, return to some form of dialogue with Cuba. In the end, given Cuba's intransigence, they viewed this as highly unlikely. They have also said they do not plan to take the same leadership role Aznar did on Cuba within the EU and would opt to be minimally involved in formulating or influencing EU policy on Cuba.

IMPACT ON COOPERATION WITH SPAIN IF WAIVER NOT RENEWED

15. (C) The GOS, like the EU, has always bristled at the Act as a piece of extraterritorial legislation which is probably contrary to the WTO and represents the imposition of U.S. foreign policy on its friends and allies. Spain is also bound by EU and subsequent Spanish implementing legislation forbidding nationals or companies from cooperating with foreign legislation such as that embodied in the Act. Companies or nationals that do cooperate with foreign governments to implement such measures will be prosecuted and fined under Spanish law, and the GOS will be obliged to report these events to the EU. Spain presumes the U.S. is still acting under the May 2000 understanding with the EU concerning enforcement of the Act and pursuit of a waiver.

16. (C) Despite Spain's opposition to the Act, the attitude of the Aznar government toward the Castro regime was the closest to ours of any Spanish government previously and one of the closest, if not the closest, of any of our allies that have ties to Cuba. While the Zapatero government may not be as openly critical of Cuba as was its predecessor, it has taken no action to soften Aznar's hard line. Were the waiver not renewed, we expect the Zapatero government to contend the EU-U.S. understanding on the Act had been broken. Non-waiver would also give the GOS cover to seek normalization of dialogue with Cuba, whatever that would entail. Given Spain's long-standing hard line against Cuba and the fact that by all appearances the Zapatero government plans to continue that hard line (even if it does not plan to be as critical as Aznar), the USG would have little to gain and much to lose in achieving its foreign policy goals by not renewing the waiver.

ARGYROS